

Jesse A. Buss, OSB # 122919
411 Fifth Street
Oregon City OR 97045-2224
Tel: 503-656-4884
Fax: 503-608-4100
Email: jessebuss@gmail.com

Tom Buchele, OSB # 081560
Earthrise Law Center
Lewis & Clark Law School
10015 SW Terwilliger Blvd.
Portland OR 97219-7799
Tel: 503-768-6643
Fax: 503-768-6642
Email: tbuchele@lclark.edu

Attorneys for Plaintiff League of Wilderness Defenders/Blue Mountains
Biodiversity Project

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

**LEAGUE OF WILDERNESS DEFENDERS /
BLUE MOUNTAINS BIODIVERSITY PROJECT**

Plaintiff,

v.

SLATER R. TURNER, et al.,

Defendants.

) Case No. 2:16-CV-01648-MO
)
) **DECLARATION OF SCOTT K.**
) **THOMPSON IN SUPPORT OF**
) **PLAINTIFF'S PETITION FOR**
) **ATTORNEY FEES**

I, Scott K. Thompson, declare as follows:

1. I make this declaration in support of Plaintiff's application for costs and attorney fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). Specifically, I make this declaration in support of the reasonableness of Mr. Buss' requested hourly rate. It is my opinion that Mr. Buss' requested hourly rate is reasonable and appropriate.

QUALIFICATIONS

2. I am an active member in good standing of the Oregon State Bar. I am also an active member in good standing of the bars of U.S. District Court for the District of Oregon.

3. My solo law practice has been located in Oregon City for over twenty years. Throughout my legal career I have handled civil litigation, estate planning/probate administration, small business formation/transactions, and criminal defense work, although in recent years I have focused on criminal defense. I am retiring from the practice of law this year.

4. I am, and for many years have been, very active in the legal community in Clackamas County, and specifically Oregon City. For example, throughout the years I have been involved in the following local legal organizations and have held the following positions: Member of Oregon State Bar Association; Member of Clackamas County Bar Association; Board of Directors of Clackamas Indigent Defense Corporation; Member of Gladstone, Oregon Juvenile Review Board; Municipal Judge Pro Tempore for the Cities of Lake Oswego and Gladstone; City Prosecutor for the City of Molalla, Oregon. As a result of my personal experience, including my above-described local involvement and my relationships with many local practitioners, I am well-acquainted with the prevailing market rates in both civil and criminal matters in Clackamas County. I am also familiar with the 2012 OSB Economic Survey

as it describes local and regional hourly rates for various legal practice areas.

6. I have known Mr. Buss personally since 2009 and I am familiar with his busy legal practice and his reputation in the legal community. Mr. Buss' practice includes general civil litigation, domestic relations, personal injury/wrongful death, estate planning/probate administration, contracts, real property transactions, land use, environmental/natural resources law, and elections law. Along with his practice Mr. Buss maintains a reputation in the legal community as an effective and professional advocate who produces high-quality work product.

THE REQUESTED RATE IS REASONABLE

7. Because I do not have personal experience litigating environmental law cases such as this, I do not offer any opinion on the reasonableness of the time Mr. Buss spent working on this case. However, in light of my experience as detailed above, I am confident that I am qualified to weigh in on the reasonableness of Mr. Buss' requested rate of \$250/hr. In my opinion, \$250/hr is a reasonable rate and is within the range of market rates for similar work in the region. Further, that rate is the same rate Mr. Buss charges his clients on a day-to-day basis when doing work on retainer. There is no better evidence of market rate than the actual rate regularly charged by Mr. Buss and regularly paid by his clients.

8. The 2012 OSB Economic Survey (which reports data from 2011) directly supports the reasonableness of Mr. Buss' normal rate of \$250/hr. That is, that Survey reports that for attorneys with 4-6 years of experience in the Tri-County region (Mr. Buss has five years of experience) the average billing rate in 2011 was \$192/hr. *Id.* at 29. However, the billing rate at the 75th percentile was \$250/hr, which is the same as Mr. Buss' regular rate for 2016 and 2017. Notably, the average 2011 billing rate at the 75th percentile for the 4-6 experience range was the

same for Portland and Tri-County regions: \$250/hr. *Id.* Since 2011 the hourly rates in Portland and the Tri-County area have gone up, not down, making \$250/hr even more reasonable in 2016 and 2017 than it was in 2011. Accordingly, it would be fair to say that Mr. Buss' regular rate of \$250/hr is now somewhere between the 50th and 75th percentiles in today's numbers.

9. Based on my personal knowledge of market rates in Clackamas County and Oregon City, Mr. Buss' regular rate of \$250/hr is entirely reasonable for a practitioner of his experience, education, and ability. In fact, in light of Mr. Buss' depth and breadth of experience, as well as the demand for his services locally, I believe Mr. Buss could justify an increase in his normal hourly rate.

EXPERT FEES

26. I spent 1.5 hours in reviewing the documentation and preparing this declaration. My normal hourly rate for civil work of this nature is \$325 per hour, which is reasonable and consistent with the market rate for an attorney of my expertise and experience in the Tri-County region. The total fees for my time spent in this matter are \$487.50.

I declare under penalty of perjury under the laws of the State of Oregon that the foregoing is true and correct to the best of my knowledge.

DATED this 17th day of July 2017, at Portland, Oregon.

s/ Scott K. Thompson
Scott K. Thompson